Present

App. F IX-4

1927.

File No. 131-27

Previous References (One)

Serial Nos. 1, 2 & 3

Later References

"Preserved"

General and Revenue Secretariat.

Serial Nos. Three

Part B for January 1928

SUBJECT

Grant of leave on ordinary & urgent cases to Gazetted & non-Gazetted officers ~~of~~ drawing a Salary of and above Rs 100 in Bangalore City municipality

D.O-L no 1085 dt 18-1-28 requesting the Commissioner to submit the leave certificate of the Special Engineer.

to the Municipal Commissioner B'lore.

General and Revenue Secretariat | File No 151 of 1927

Serial No	
1	Do letter No 62/27-28 & 19 9 27 from the Chief Commr, Bangalore City Requests in the circumstances stated, a definite ruling may be issued as to the authority who can grant leave in ordinary and urgent cases in respect of Non-Gazetted and Gazetted Officers drawing a monthly salary of above Rs 100 in the Bangalore city municipality Under sections 177(2)(1)(ii) and 182 (1) of the Local Govt have left the power of appointing and removing of a Health Officer, an Engineer in a city municipality 2 Under Section 186(a) of the Local Govt Chief Commr of a city municipality is competent to appoint & fix persons to posts under the municipality salary of which does not exceed Rs 100/- thus leave to the post of Health Officer, Engineer, Chief Accountant, Manager or Inspector and under Sub-Clause (2) thereof he can also grant leave to the foregoing class of Officials 3 The Post of Health Officer Engineer, and ~~Chief Accountant~~ Manager in a city municipality

NOTE—Contn sheet

General and Revenue Secretariat. | File No 151 of 192 7

Serial No.

carry a monthly military allowance Rs 60/- and the power of appointing such Officers vested with Govt as stated above Rule(s) Section 177 and 182 would mention of the authority who can grant leave to such Officers

4 Since Govt have sought the power of disappointment of such Officers, they can also grant leave to them subject to the rules framed by Govt under proviso (a) to Section 46 (4) of the Road Rules.

5 The Rules of the such Rules have to Govt been issued by Govt and the Municipalities of Rural Councils have been requested to submit draft Rules as the matter for the approval of Govt (Vide G.O. No 25347-49 I Rd 22-26-4 Dated 20 Feb 1927).

9

6 Submitted for orders

[illegible] The Health Officer, the Engineer and the Chief Officer are also Officers of the school and under clause (f) of Section 46 the said should have framed Rules for the grant of leave. The memo now sent up have to be approved as the Rules on the Subject

Note—Contin. sheet

[illegible]

General and Revenue Secretariat — File No 151- of 192 7

Serial No 8

The Municipal Commissioners letter is sub for perusal The General section applying in the case of grant of leave to Mnl employees is Sec 46 clause f/ which says that the Mnl Cl can frame rules in the matter subject to the approval of Govt No rules are said to have been framed under the Section in the Palace City Municipality The special powers of the Chief Commissioner in regard to leave are given in Sec 156 f The section gives him no power to give leave to employees getting Rs 100 and above The cases of the Health Officer, the Engineer and similar officers are therefore not covered by any existing rule The Govt have power to require the Mnl Cls to employ these officers The power of control would (in the case of these officers) seem to be with the Mnl Cl subject to the safeguards provided in the Regulation The action of the Chief Cl would however in all cases seem to require formal approval of Govt

9 The Municipal Commr proposes the Draft memo enclosed with his letter for adoption The correct course would seem to be to request the Chief Cl to frame rules under Sec 46(f) and forward them for the consideration of Govt

Press—Contin sheet

1425

4

App F III—2]

General and Revenue Secretariat — File No 151 of 1927

Serial No

to the Law
connected as to the legal position

MW
24/9

CHIEF SECRETARY
28 SEP 1927

Ch Secy

In favour of an early expression of opinion as to whether the Municipal Commissioners can grant leave to Messrs under him although he may have no powers to appoint them. Under Section 24 of the Municipal Regulation, the President is empowered "subject to the rules of the Municipal Council at the time being in force, to dispose of all questions relating to the service of the said [i.e. Municipal] Officers and servants and their pay, privileges and allowances." In a Municipality for which a Commissioner is appointed, these powers devolve on the Commissioner. As there are no special rules in force regulating the subject and as the words above quoted are wide enough to cover the grant of leave to Municipal Officers, I believe

NOTE—Contra sheet

General and Revenue Secretariat. Gl File No. 151 - of 1927 14252

Serial No.

This power is already vested in the Council and cannot be taken away or modified except by rules framed under Section 46 with the approval of Govt.

13 I do not agree with the Council's interpretation of Sections 177 & 182 but if the views expressed above by me is correct, it makes it unnecessary to consider the question of any special delegation of powers to the Council or grant of leave to Mayor

Sec'y to Legal Remembrancer Nov 29 19
Govt ought to

15 I agree with the Chief Secretary in the view he has taken of the operation of sections 182, 177(2) and of Section 24

16 The Municipal Commissioner has, in my humble opinion, misconceived the purport of these sections

17 Under Section 182, City Municipal Council has power to appoint a Chief Officer and a Health Officer and an Engineer with the sanction of Government This is a power vested in the Council by the Statute

Notes—Contn. sheet

General and Revenue Secretariat — File No 151- of 1927

Serial No

18 Under Section 182(2) no such officer shall be removeable unless by the ~~xxxxxx~~ votes of at least three-fourths of the whole number of Councillors

19 In this case also previous sanction of Government has to be obtained Having regard to the fact that the Municipal Council is constituted a legal entity by the Regulation having full power to sue and be sued in their corporate name and having power to acquire and hold property including Municipal Fund and to manage and control the affairs of the Municipality with certain limitations by way of interference by Government it cannot in law be contended that the Government is the sole authority to make the appointment of any of its officers to conduct its affairs and to pay the salary of its officers out of Municipal Funds without any reference to the Municipal Council

20 If the view of the Municipal Commissioner be accepted viz , the Council has only to recommend the appointment of these officers to Government who alone has power to appoint, the position will be to constitute the Government the sole authority to administer the affairs of the Council ~~through~~ through the officers appointed by them- This position will run counter to the spirit and object of the Legislature in enacting Municipal Regulation for establishment of Local Self Govt. The Municipal Council being an artificial person cal

NOTE—Contn sheet

WD 9324—GPB—60,000—24-5-27

General and Revenue Secretariat (File No 151 - of 192 7

Serial No

can only act through the medium of real persons These persons will, firstly, be members themselves and secondly, officers and servants of the Council A Municipal Officer is one who holds a permanent Municipal position of trust and responsibility with definite powers, duties and privileges defined in the statute and these officers can only be created or abolished by statute (See Abbott's Corporations, Vol II pp 1456 et) The relation that exists between a Corporation and an employee is one based on contract Hence Section 182 says Council may appoint , the contract of service is in law entered into between the Council on one part and the officer on the other

24 The clause relating to the sanction of Government prescribes the procedure to be followed by the Council before it makes the appointment Where the statute has prescribed a special mode of appointment of Municipal Officers any appointment made outside the terms authorised by the Statute however, made is ultra vires (See 34 Cal 803 and 37 Cal 44)

25 From the foregoing it is clear that the power of appointment of the Engineer rests with the City Municipal Council and that such power should be exercised only after obtaining the sanction of Government

NOTE—Contn sheet

WD 0824—GPE—60,000—24-5 27

200727

8

App F III—2]

General and Revenue Secretariat — File No 151 — of 1927

Serial No

23 Under Section 24(c) the President has power to dispose of all questions relating to the service of all officers of the Municipal Council and their pay, privileges and allowances This power shall be performed and exercised by the Municipal Commissioner by operation of proviso to Section 24 Hence in the present case Mr Govinda Rao is justified in granting leave to the Engineer of the Municipal Council

24 In this view it is not necessary to frame the rules proposed by him Under Section 46, it is the Municipal Council that has to frame the rules subject to the provisions of Chapter XIIIA and not the Government as the proposal of Municipal Commissioner implies

25 The Government may not perhaps accede to the request of the Commissioner

CHIEF SECRETARY 21 OCT 1927

26 Chief Sec? with Compts

Bhagat L R 21 10 27

27 In pursuance of the views expressed above by Mr Legal Remembrancer & myself, Mr Municipal Commissioner may be informed that he can grant leave to Municipal Officers under Section 24 and that the question of any rule being framed by Govt does not—

Nor —Contn sheet

W D 0334—G P E —60 000—24 5-27

General and Revenue Secretariat

File No 157 of 192 7

DEWAN'S OFFICE
Received on
29 OCT 1927
Reg. No 2672

OFFICE OF THE SECRETARY OF THE INDIAN EXECUTIVE COUNCIL
22 OCT 1927
No 3.5.28

Serial No

not arise

28 Other Members
29 Dewan
30 Degree
31 esq
32 Mr
33 Brief letter to Mil Comm - Draft
34 Dbt put up
35 Ch Secy
36 Leave

Mr 27/10
Mr 27/10
Mr 28/10
3 Mr
29-10-27
Mr 31/10
Mr 1/11
Mr 2/11
Mr 2/11

CHIEF SECRETARY
1 NOV 1927

COMPTROLLER'S OFFICE
-7 NOV 1927
SIMLA

37 Legal
Mr 9/11

Has not the letter been signed? Why and through the Comptroller's office? Mr 9/11

NOTE—Contn above on the flag C.

No 2672 dated 5/11/27 to Mr Mil Comm informing him that he has power to grant extra leave under Section 26 Pay on Mil Regulation and Mal

WD 9934—GPB—40,000—24-8-27

App F III—21

General and Revenue Secretariat — File No 151 of 1927

Serial No

no question of framing rules for the Peshwa areas

Memo 2473 & 5/11/27 forwarding copy of SL 2 to the Comptr.

Do letter 17/SR dated 8th Nov 1927 from the Comptroller stating that whoever might grant the leave, it should be notified in the Gazette

39 The Head concerned may be informed that the grant of leave may be notified in the Gazette

40 The question of Mr Ramachandra Rao retirement may not be taken up in case any proposals have been received from the Municipal council

41 Draft — Mod 11/11

42 Draft submitted as directed in para 39 — Undersd 11/11

43 No proposal re the retirement of M Ramachandra Rao has yet been received in the Branch. Ch 12/4

44 No specific mention of this is to be made in the draft.

45 Document put up MD 14/4

NOTE—Contn sheet

GPS—5,000—30-3 27

2148/L

11

App F III—2]

General and Revenue Secretariat — File No 151 of 1927

Serial No	
3	Letter no L2656 dt 14 11 27 from the Govt Bangalore City States that the grant of leave may be notified in the Gazette in cases in which there would be frequent Govt establishments 41 The orders issued and the file is transmitted with ref to para 45 supra RL 15/11/27 47 Ref para 40 the proposal has been referred from Public to Pol & Rlys retirement Ans 15/11 Ch Secy 48 The question must be taken up in time when will the leave expire? Sec 15/11 Sec 16/11 49 Mr Ramachandra Rao's leave of three months from the 21st August 1927 expires on the 20th Jan 1928 Sec 17/11 Ans 50 For perusal Retirement is proposed in a comm in the

CHIEF SECRETARY'S OFFICE
No. L. Secretariat sheet
18 OCT 1927

WD 0324—GPB—60 000—24-8 27

12

3091 L

App F III—2]

General and Revenue Secretariat — File No 151 of 1927

Serial No

Linked file which was to be sent up in
Nothing earlier in the file. Matter is regarding
Action to be taken (some orders of retirement will be
taken in the linked file as soon as
the leave certificate.
Ch Secy

MIII
19/III

Sri M. J. Ramachandra Rao's leave expires on
21st inst. No orders have been communicated
so far even after the expiry of his leave
for want of receipt of the leave certificate
in which to put the file now received
Submitted for orders

Ady
T 16/1/28

Returned for leave cert
on
16/1

Matter is sealed for appl

Ady
T 19/1/28

Secretariat
20/1

Immediate Secretariat has agreed and
the file is transmitted as directed

Ady
T 19/1/28

Personal — Orders of
retirement have to be delayed as leave
certificate has not been recd.

Secretariat
20/1

Chadley

Received to Madras Secy
Leave Certificate
applied for by him 20th inst

CHIEF SECRETARY
20 JAN 1928
No1 —Contn sh[redacted]

3091 13

App F III—2]

General and Revenue Secretariat | Rel File No 157 of 192)

Serial No

As Mr D Ramachandra Rao was on his retirement have been sanctioned the Govt house may be closed

B
9/6
16/1

NOTE—Contn sheet

WD 0824—GPB—60 000—24 5-57

CITY MUNICIPAL OFFICE,
Bangalore,
Dated, 19th September 1927.

D.O.No 62 Se-1
27-28

Dear Sir,

I beg to bring to the notice of Government that the powers of the Municipal Commissioner for granting leave to Non-Gazetted and Gazetted Officers drawing a salary of above Rs 100/- in Bangalore City Municipality have not been defined in the Municipal Regulation or by an Executive Order of Government

2 Under Section 186(J), the Municipal Commissioner is competent to fill up posts, under certain conditions, the monthly salary of which does not exceed Rs 100/-, other than to the post of Health Officer, Engineer, Chief Accountant, Manager or Auditor The City Municipal Council may, with the sanction of Government, appoint the latter class of officials under Section 182 (1) of the Municipal Regulation This section read with Section 177(2) (ii) and (iii) indicatesthat the Municipal Council's powers over the appointments are recommendatory and that the confirmation, continuance or determination of the tenure of such appointments vest in Government. It has to be noted in this connection that Section 182 is silent about the grant of leave to these class of Officers and it has to be presumed that such power has to be exercised by the Government only I am strengthened in this view by the fact that a provision for grant of leave etc is made under Section 186(J)(b) and (c).

3 . With a view to set at rest all doubts, a definite ruling is called for as to the authority who can grant leave in ordinary and urgent cases. The

The Council meets only at intervals and officers applying for leave on urgent private affairs cannot be told to defer availing themselves of leave till the same is formally sanctioned

4 . I enclose a memo of rules about the grant of leave by the Municipal Commissioner to Gazetted and Non-gazetted Officers in Bangalore City Municipality and I beg that the same may receive the early consideration of Government as the power to grant leave to Municipal Officers is vested in them (Government) by implication

Yours sincerely,

Kasturi Rao

N MADHAVA RAO,Esq, B A ,B L ,
Chief Secretary to the Government
of His Highness the Maharaja of Mysore,
BANGALORE

M E M O

The Municipal Commissioner is competent,

(a) To grant casual leave to all Gazetted and Non-gazetted Officers in Bangalore City Municipality

(b) To grant permission to the above class of Officers to utilize the Dasara and Christmas holidays

(c) To grant Privilege leave not exceeding six weeks to Health Officer, Special Engineer and Municipal Engineer when no substitutes are required

(d) To grant privilege leave not exceeding four months to non-gazetted Officers whose salary is - above Rs 100/- per mensem

2 A copy of the order passed by the Municipal Commissioner should be submitted to Government for confirmation or other orders and placed before an early meeting of the Municipal Council for information

3 All applications for leave of longer duration should be submitted to Government for orders

Municipal Commissioner

DRR

4

Draft

No 1-1172 & 5/11/27
in file
re 1517-27

Dear Sir,

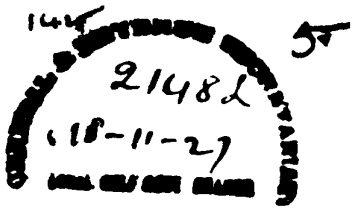
With reference to your D O letter No. 62/27-28 dated 19th September 1927 on the subject of your powers to grant leave to Officers ~~in the City~~ there Municipality I am desired to state that the Commissioner for the City Municipality has under Section 24 (c) and the proviso to Section 24 of the Mys Mil Regn all the powers necessary in this behalf and that the question of any rules being framed by Government in this matter does not arise

Yours sincerely,

T Govinda Rao, Esq.,
Municipal Commissioner,
Bangalore City

No 1173 & 5/11/27
in file
copy to the Comptr, Legr
with the file for personal
inspection of whom
may

Let us see the file



OFFICE OF THE COMPTROLLER TO THE GOVERNMENT OF MYSORE.

D O No 51 /Enc 1 File

Bangalore dated 8th November 1927

File put up below

Sec

10 NOV 1927

Dear Sir,

I return herewith Secretariat File received with your Memo No L 2473 dated 5th November 1927 Whoever may be the authority to sanction leave to Gazetted Officers, the leave sanctioned will have to be notified in the Gazette to enable the Audit Office to post the Audit Register and compile the History of Services of the Officer

Yours sincerely,

V V Ramanna

N. Madhava Rao Esqr , B.A B.L ,
Chief Secretary to Government,
Bangalore.

T

Section Rel
File No 151-27
Serial No 3

No. of letter replied to

No L2656

General and Revenue Secretariat
( )
the *192*

To
The Mun. Comm. Bangalore
thro the President
Mil. Council Bangalore

of issue 14-11-27

by Mr. B.V. Iyengar

Sir,

In continuation of my letter
L 2472/Rel 151-27-2 dt 5/11/27 on the
subject of your powers to grant
leave to officers of the Municipality, I
am directed to state that
the grant of ~~[redacted]~~ leave may
be notified in the Gazette in cases
in which the officer concerned is
in Govt establishment

Yours etc

MO 14/11 Chief Sec to Govt

of enclosures

ed by L 2657

Copy to Comptroller for his reference
to his letter no 31/SR dt 8th Nov 1927

Examined by

over B

W.D. 62 -GPR—31 000— 17 8 25

Ch 12/11/27

MO 14/11

for Chief Sec to Govt

D.O 727
22-28

CITY MUNICIPAL OFFICE
BANGALORE
Dated 29th Decr 19 27

DW 03071
4-1-28

Dear Sir,

With reference to your D O letter No L 3543 dated the 19th December 1927, I write to inform you that the entries in the service register of Mr T Ramachandra Rao are being verified to calculate the period and kind of leave he is entitled to prior to his retirement and a certificate will be furnished as soon as this is ready

The question of the appointment of Mr P Subba Rao as Municipal Engineer in place of Mr D Madhava Rao is pending before Council

Yours sincerely,

Offg Municipal Commissioner

N Madhava Rao, Esq, B A, B L,
Chief Secretary to the ~~Govt. of~~
H H the Maharaja of Mysore,
Bangalore.

4

APP VI. (3)

SUBJECT .....

.....

.....

Section Act 45 of 1860

File No. 151-27

Serial No.

No. L4085

Dairy No. of letter replied to.....

General and Revenue Secretariat

(L. S.)

the 192

Date of issue 18-1-28

Signed by Mr. M. V. Iyengar

A

List of enclosures.....

Copied by .....

Examined by .....

Dear Sir,

I am directed to invite a reference to the Chief Secretary's D.O. letter No. C 1515/XL 3-27-3 dated the 13th September 1927 and to your D.O. letter No. 127/27-28 dated 29th Dec 1927 and to request you to ~~explain~~ furnish me the above certificate in favour of Mr. D. Ramachandra Rao, Special Engineer, ~~Irrigation Department~~, as others have to issue duly ~~authenticated~~ endorsement from the 21st instant, the date of expiry of

over

I already
leave granted & have proceeded
to Chakrata

Yours Sincerely

Mr. D

I Commdg Nav Esq
Naval Cmdr, Bombay

Mk
15/4/18